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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING CERTAIN TONER CARTRIDGE PRODUCTS

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of certain toner cartridge products known as All-In-One Toner Cartridges. Based upon the facts presented, CBP has concluded in the final determination that Japan is the country of origin of the All-In-One Toner Cartridges for purposes of U.S. Government procurement.

DATES: The final determination was issued on June 24th, 2014. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within [insert 30 days from date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Grace A. Kim, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202) 325-7941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 24, 2014 pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain toner cartridge products known as All-In-One Toner Cartridges, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H251592, was issued under procedures set forth at 19 CFR Part 177, subpart

B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18). In the final determination, CBP concluded that, based upon the facts presented, the assembly processes performed in Japan, substantially transform non-TAA country All-In-One Toner Cartridges. Therefore, the country of origin of the All-In-One Toner Cartridges is Japan for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 24, 2014

Sandra L. Bell
Executive Director
Regulations and Rulings
Office of International Trade

Attachment

HQ H251592

June 24, 2014

OT:RR:CTF:VS H251592 GaK

CATEGORY: Origin

Fusae Nara
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, NY 10036-4039

RE: U.S. Government Procurement; Country of Origin of All-In-One Toner Cartridges; Substantial Transformation

Dear Ms. Nara:

This is in response to your letter, dated February 21, 2014, requesting a final determination on behalf of Ricoh Company Ltd. ("Ricoh"), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection ("CBP") Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 ("TAA"), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government. This final determination concerns the country of origin of Ricoh's all-in-one ("AIO") toner cartridge ("AIO cartridge"). We note that as a foreign manufacturer, Ricoh is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

Ricoh designed and developed the AIO cartridge in Japan, which is used with Ricoh's Aficio multifunctional products ("MFP") as well as printers. The AIO cartridge can be distinguished from conventional toner cartridge in that it does not only contain the toner powder, but also a cleaning unit and a development unit. It serves multiple functions by storing and transporting the toner, then transferring and affixing letters and images onto paper. The AIO cartridge also cleans the surface of the Organic Photo Conductor ("OPC drum"), which converts the light signal to the electric charge, enabling the toner particles to be affixed onto the paper. In contrast, in a conventional cartridge, the cleaning of the OPC drum is done by the MFP or printers.

As stated above, the AIO cartridge has three main components: toner powder, development unit, and cleaning unit. The toner powder is the ink that forms the letters and images on paper and is claimed to be the most critical element of the AIO cartridge. Ricoh developed and produces the toner powder in Japan and the formula for the toner is proprietary and patented. The production process involves pre-mixing the chemical ingredients using a highly sophisticated chemical mixer; mixing and kneading the toner powder by adding air pressure, followed by a cooling process; pulverizing the toner; equalizing the toner particles into the same size; and final mixing and packaging.

The development unit has a container called a "hopper," that holds the toner powder. The development unit is assembled in China and imported to Japan, where the hopper will be filled with toner powder. After the hopper is filled with toner powder, the hopper is sealed and cleaned to avoid any contamination of the MFPs and printers.

The cleaning unit is assembled in Japan and contains the OPC drum, cleaning blade, charge rollers and other miscellaneous parts. With the exception of the OPC drum, all

components are made in Japan. The OPC drum is produced in Thailand with parts from various countries. It is stated that the assembly of the cleaning unit requires experienced technicians, as the assembly is of a delicate nature. The assembly process includes assembling the cleaning blade, applying black toner powder on the cleaning blade for a smooth contact with the OPC drum, setting the waste toner case, assembling the cleaning blade to the spent toner case, and assembling the OPC drum and charger roller into the cleaning unit.

The next step in producing the AIO cartridge involves making a frame assembly in Japan, which is the outer structure of the AIO cartridge. The arm shutter is assembled to both the right and left sides of the frame; a spring is attached to each arm shutter; the right frame is assembled by attaching the arm shutter and electrode sheets, which connect the cleaning unit and development units to the toner hopper; a memory chip and radio-frequency identification tag ("RFID chip") is installed to the side of the right frames. The same processes are repeated for the left frame, except that the left frame does not include a memory chip or RFID chip. After the outer structure is assembled, the toner hopper, developer unit and cleaning unit are assembled together in Japan. The assembly process involves mounting the right and left frames onto the assembled development unit and cleaning unit combination, assembling gears connecting the frame to the development and cleaning units, and installing the OPC drum shutter. The AIO cartridge is inspected and data is input onto the RFID chip, which allows the MFP or printer to recognize the AIO cartridge and informs the user when the AIO cartridge should be replaced.

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 C.F.R § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq*.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers or certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government. Under the rule of origin set forth in 19 U.S.C. § 2518(4)(B):

> An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and

worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of the operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), aff 'd, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one that leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States*, 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, generally will not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97.

CBP has held in a number of cases involving similar merchandise that complex and meaningful operations involving a large number of components result in a substantial transformation. Ricoh states that the toner for the cartridge is the most valuable component citing Headquarters Ruling Letter (HQ) W563548 (Nov. 9, 2009). In that case, CBP considered the country of origin of toner cartridges and image drums which were remanufactured in the U.S. The toner cartridges comprised 52 parts plus toner and 20 new parts were used to remanufacture the toner cartridges: 14 from the U.S., 1 from the U.K., and 5 from China. The remaining 32 parts were salvaged from used cartridges, which were cleaned for reassembly. The components with mechanical function such as the shutters, mixing gear, mixing bar, and spiral attachments were simply cleaned and not replaced. The cartridges were filled with new toner of Japanese origin and tested. CBP found that the cartridges were not substantially transformed in the U.S. because the remanufacturing processes were rather simple. Rather, the toner was the only significant component replaced during the remanufacturing operation. CBP concluded that since the toner imparted the essential character of the remanufactured toner cartridge, the country of origin was Japan. HQ W563548 also considered the remanufacture of image drums in the U.S. The image drums were comprised of 110 parts and 56 new parts were used from various countries: 12 in the U.S., 1 in Canada, 5 in Japan, and 38 in Thailand. Several of the newly manufactured parts were significant to the functionality of the image drum, such as the organic photoreceptor drum (claimed to be the most valuable component of the image drum), the developing roller, the charge roller, and the cleaning blade, which were all manufactured in Japan including new lubricating toner powder. Unlike the toner cartridge in W563548, the remanufacturing of the image drums required replacement of most of the components that contributed to the functionality of the image drum. Based on these facts, CBP concluded that the image drum was substantially transformed in the U.S.

We find that substantial manufacturing operations are performed in Japan in producing the AIO cartridge. While the OPC drum is manufactured in Thailand, the other parts of the cleaning unit originate in Japan. As a result of the assembly of the cleaning unit in Japan, the OPC drum becomes an integral part of the cleaning unit such that it may be considered a product of Japan. This is analogous to the remanufactured image drum assembly process described in HQ W563548. The development unit is manufactured in China. The toner powder is manufactured in Japan and as found in W563548, it is the most critical element of the AIO cartridge. These three components (two of Japanese origin and one from China) are brought together by the frame

assembly also performed in Japan. Therefore, we find that the country of origin of the Ricoh AIO cartridge is Japan.

HOLDING:

Based on the facts of this case, we find that the processing in Japan substantially transforms the non-Japanese components. Therefore, the country of origin of the AIO cartridge is Japan for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell, Executive Director
Regulations and Rulings
Office of International Trade

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